



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

Construction Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, and Newark Liberty International Airport, April 1, 2023, through November 30, 2023

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notification of limited waiver of the slot usage requirement.

SUMMARY: This action grants a limited, conditional waiver of the minimum slot usage requirements at Ronald Reagan Washington National Airport (DCA) due to runway construction and closures at the airport in 2023 and for impacted flights between DCA and slot-controlled airports John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA). In addition, the FAA will provide similar limited, conditional relief at Newark Liberty International Airport (EWR) under the FAA's Level 2 schedule facilitation process.

DATES: The usage waiver and policies in this notification are effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and apply from April 1, 2023, through November 30, 2023.

ADDRESSES: Requests may be submitted by mail to the Slot Administration Office, System Operations Services, AJR-0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by e-mail to: 7-awa-slotadmin@faa.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this notification contact: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR-G5, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone 202-264-0568; e-mail al.meilus@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Metropolitan Washington Airports Authority (MWAA) plans airfield and runway construction at DCA beginning in 2023 and continuing into 2024. The main Runway 1-19 will be closed nightly from approximately May 1, 2023, through October 15, 2023, from 11:00 p.m. to 5:59 a.m. Eastern Time on weekdays and potentially on weekends depending on the construction project's progress. Runway 4-22 will be closed nightly and open for Runway 4 daytime departures only for the duration of the construction project. Runway 15-33 will have nightly closures in late April 2023 and again in mid-June to late July 2023, including the intersection with Runway 1-19. Associated taxiways will also be rehabilitated during the project.

The FAA limits the number of arrivals and departures at DCA through the implementation of the High Density Rule (HDR).¹ The HDR hourly limits at DCA are 37 air carrier slots, 11 commuter slots, and 12 reservations available for other operations.² The "Other" class of users is limited to unscheduled operations such as general aviation, charters, military, and non-passenger flights and is not intended for scheduled flight or other regularly conducted commercial operations. The FAA limits the number of arrivals and departures at JFK and LGA by FAA Order.³

At DCA, JFK, and LGA, each slot must be used a minimum of 80 percent of the time.⁴ At DCA and LGA, any slot not used at least 80 percent of the time over a two-month period will be recalled by the FAA.⁵ At JFK, usage is calculated seasonally, slots not meeting the minimum usage requirement will not receive historic status for the following equivalent scheduling season.⁶ The FAA may waive the 80 percent minimum usage requirement if a highly unusual and unpredictable condition beyond the control

¹ 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high-density traffic airports in 14 CFR part 93, subpart K. The HDR requires carriers to hold a reservation, known as a "slot," for each takeoff or landing under instrument flight rules at the high-density traffic airports. Currently, only operations at DCA are limited by the HDR.

² 14 CFR 93.123.

³ Operating Limitations at John F. Kennedy International Airport. 73 FR 3510 (Jan. 18, 2008), as amended, and most recently extended by 87 FR 65161 (Oct. 28, 2022). Operating Limitations at New York LaGuardia Airport. 71 FR 77854 (Dec. 27, 2006), as amended, and most recently extended by 87 FR 65159 (Oct. 28, 2022).

⁴ Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65162 (Oct. 28, 2022); Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(a).

⁵ Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(a).

⁶ Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65162 (Oct. 28, 2022).

of the slot-holding air carrier affects carrier operations for a period of five consecutive days or more at JFK and LGA and nine consecutive days or more at DCA.⁷

The FAA designated EWR a Level 2 airport under the Worldwide Slot Guidelines (WSG), now known as the Worldwide Airport Slot Guidelines (WASG). The FAA does not allocate slots, apply historic precedence, or impose minimum usage requirements at EWR. Level 2 schedule facilitation depends upon close and continuous discussions and voluntary agreement between airlines and the FAA to reduce congestion. At Level 2 airports, the FAA generally provides priority consideration for flights approved by the FAA and operated by the carrier in those approved times in the prior scheduling season when the FAA reviews proposed flights for facilitation in the next corresponding scheduling season. However, the FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights, which are canceled in advance or on the day of the scheduled operation due to operational impacts that are beyond the control of the carrier.

Summary of Petitions Received

On November 30, 2022, Airlines for America (A4A) filed a petition on behalf of member and associate member airlines requesting a limited waiver of the minimum slot usage rules at DCA due to the impending runway construction. The petition also sought either a limited waiver of the minimum slot usage requirements or schedule relief at LGA, EWR, and JFK for slots or movements for nonstop flights to and from DCA during specified hours. A4A states that “construction at DCA will impose conditions that will significantly impact operations and those conditions are beyond the control of the slot holders, thereby providing good cause for the requested waiver.” A4A indicates “the nighttime closing of the main Runway 1-19 will significantly impact carriers that hold slots in the 2300 hour by forcing them to use Runway 15-33 or not operate.” A4A notes that “for many carriers, the option to use 15-33 will have a negative impact because some aircraft, such as the 737-900/ER/MAX are unable to use runway 15-33”

⁷ Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65163 (Oct. 28, 2022); Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(j).

and “other aircraft will need to apply hefty payload penalties to operate on runway 15-33, for example some aircraft would need to reduce between 50 and 75 passengers on all but the shortest routes.”

A4A also requests relief for slot pairs associated with the 2300-0559 closure period, noting carriers may seek alleviation for the closures slot’s pair, which may be outside the 2300-0600 hours and requests the FAA “work with carriers on an individual basis to determine their slot pairing needs and requests as carriers’ monthly schedules develop.”

In addition, A4A requests relief for slot usage associated with several operations between DCA and JFK, EWR, or LGA. Specifically, A4A requests the FAA grant slot usage or schedule alleviation to “departure slots between 2100 and 2200 used for nonstop service to DCA, as such flights typically arrive at DCA in the 2300 hour” and “for any DCA departure slots between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York airports.”

Southwest Airlines Co. (Southwest) filed a request for temporary slot flexibility at DCA on December 5, 2022. Specifically, Southwest requests that the FAA permit Southwest to move three flights currently scheduled in the 2300 hour to available hours earlier in the day rather than canceling the flights during the DCA construction and closure periods. Southwest does not oppose the waiver request filed by A4A but “believes that FAA should pursue the goal of enabling carriers to maintain all possible capacity at DCA to promote competition, maintain low fares, and ensure nonstop travel options for the flying public.” Southwest states there is available capacity in other hours for Southwest to move its flights without exceeding hours limits based on 60 operations per hour.⁸

FAA Analysis and Decision

The FAA has determined the DCA airport construction and runway closures warrant limited, conditional relief from the minimum slot usage requirements because the impacts to operations in certain hours are beyond the carriers’ control and will exist for several months. The closures from 2300-0559 Eastern Time are expected to impact operations as described by A4A and Southwest.

⁸ The High Density Rule hourly limits for DCA are 37 air carrier slots, 11 commuter slots, and 12 reservations available for Other operations. The Other category is limited to unscheduled operations such as general aviation, charters, military, and non-passenger flights and is not intended for scheduled flight or other regularly conducted commercial operations.

DCA is a high-demand airport, and carriers have indicated they plan to operate flights if feasible. There are typically 15 to 16 arrivals in the 2300 hour with the corresponding aircraft used for departures in the morning hours with additional potential for a few cancellations in the late evening hours and the corresponding departures. The FAA is not limiting the relief to certain hours in order to provide some degree of flexibility to carriers to allow them to balance schedules and slot pairs.. However, the FAA may require carriers to justify how returned slots are impacted by the runway closure if returned slots are not during or adjacent to the runway closure periods.

The FAA will work individually with carriers on retiming and schedule adjustment options; however, the FAA will not retime air carrier operations into hours that are currently at the air carrier slot limit. The FAA notes that carriers at DCA regularly engage in swapping slots for retiming purposes or in temporary leasing of slots and those options remain available for carriers to manage slot holdings at the airport.

In addition, the FAA is extending a limited, conditional waiver from minimum usage requirements at JFK and LGA and providing similar relief at EWR under the Level 2 process for departure slots or approved schedules between 2100 and 2200 used for nonstop service to DCA, as well as slots or approved schedules associated with a DCA departure between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York City area airports. Carriers may also choose to use those slots at JFK and LGA or the approved runway times at EWR for operations to other markets than DCA.

The FAA will treat as used the specific slots impacted by the construction for the period from April 1, 2023, through November 30, 2023. This provides some time before and after the currently planned runway closure dates to accommodate potential changes to the construction schedule and provide carriers that may need some relief on either side of the current anticipated construction dates to phase in or phase out current operations. The relief is subject to the following conditions:

1. The specific slots must be returned to the FAA at least four weeks prior to the date of the FAA-approved operation, by submission to 7-awa-slotadmin@faa.gov.

2. Slots newly allocated after December 1, 2022, for initial use before November 30, 2023, are not eligible for relief.
3. Slots authorized at DCA by Department of Transportation or FAA exemptions are not eligible for relief.
4. At JFK, LGA, and EWR only departure slots or approved schedules between 2100 and 2200 used for nonstop service to DCA and slots or approved schedules associated with a DCA departure between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York City area airport are eligible for relief.

Issued in Washington, DC.

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